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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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UNITED STATES OF AMERICA,  
  
Plaintiff,

v.

MARILEE BORDEN,  
  
Defendant.

MEMORANDUM DECISION AND  
ORDER DENYING WITHOUT  
PREJUDICE DEFENDANT’S MOTION  
TO APPOINT COUNSEL

Case No. 2:22-CR-187 TS

District Judge Ted Stewart

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This matter is before the Court on Defendant’s Motion to Appoint Counsel. Judgment was entered against Defendant on April 19, 2023. She did not file a direct appeal. On August 28, 2023, the Court received a letter from Defendant requesting replacement counsel.

The Supreme Court has made clear that “the right to appointed counsel extends to the first appeal of right, and no further.”<sup>1</sup> To the extent Defendant seeks counsel to represent her in other proceedings, “there is no right to counsel in collateral proceedings.”<sup>2</sup> The Court has the discretion to appoint counsel under the Criminal Justice Act.<sup>3</sup> The decision to appoint counsel is left to the sound discretion of the Court.<sup>4</sup> “In determining whether to appoint counsel, the district court should consider a variety of factors, including the merits of the litigant’s claims, the nature of the factual issues raised in the claims, the litigant’s ability to present his claims, and the

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<sup>1</sup> *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1990)

<sup>2</sup> *United States v. Prows*, 448 F.3d 1223, 1229 (10th Cir. 2006).

<sup>3</sup> 18 U.S.C. § 3006A(a)(2).

<sup>4</sup> *Engberg v. Wyoming*, 265 F.3d 1109, 1122 (10th Cir. 2001).

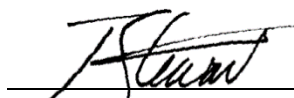
complexity of the legal issues raised by the claims.”<sup>5</sup> Considering these factors, the Court declines to appoint counsel at this time.

It is therefore

ORDERED that Defendant’s Motion to Appoint Counsel (Docket No. 153) is DENIED WITHOUT PREJUDICE.

DATED this 15th day of November, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Stewart", is written over a horizontal line.

Ted Stewart  
United States District Judge

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<sup>5</sup> *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991).